

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

22 Civ. 03897 (LAK)

-against-

**STRAIGHTPATH VENTURE PARTNERS LLC,
et al.,**

Defendants.

[PROPOSED] CIVIL CASE MANAGEMENT PLAN AND SCHEDULING ORDER

WHEREAS, Plaintiff Securities and Exchange Commission (the “Commission”) commenced this action (the “Action”) against Defendants Brian K. Martinsen, Michael A. Castellero, Francine A. Lanaia, and Eric D. Lachow (collectively, the “Individual Defendants” and with the “Commission”, the “Parties” and each a “Party”), and Defendants StraightPath Venture Partners LLC and StraightPath Management LLC (collectively, the “Corporate Defendants”);

WHEREAS, on June 14, 2022, the Court entered the Stipulation and Consent Order Imposing Preliminary Injunction and Other Relief (Dkt. No. 55, and as may be subsequently modified or amended by the Court, the “PI Order”) and the Consent Order Appointing Receiver (Dkt. No. 56, and as may be subsequently modified or amended by the Court, the “Receiver Order”), which appointed Melanie L. Cyganowski, as the receiver (in such representative capacity only, and not in her individual capacity, the “Receiver”) for the Corporate Defendants and certain of their non-party affiliates¹;

¹ The affiliates include SP Ventures Fund LLC, SP Ventures Fund 2 LLC, SP Ventures Fund 3 LLC, SP Ventures Fund 4 LLC, SP Ventures Fund 5 LLC, SP Ventures Fund 6 LLC, SP Ventures Fund 7 LLC, SP Ventures Fund 8 LLC, and SP Ventures Fund 9 LLC.

WHEREAS, on August 9, 2022, the Court entered the Stipulated Protective Order (Dkt. No. 76, and as may be subsequently modified or amended by the Court, the “Protective Order”) (collectively, the PI Order, the Receiver Order, and the Protective Order are the “Prior Orders”);

WHEREAS, the Commission, the Individual Defendants and the Receiver submit this [Proposed] Civil Case Management Plan and Scheduling Order pursuant to Rules 16(b) and 26(f)(3) of the Federal Rules of Civil Procedure (“Federal Rules”);

1. The Parties **do not** consent to conducting all further proceedings before a United States Magistrate Judge, including motions and trial.

2. The Commission and the Individual Defendants **have** engaged in settlement discussions.

3. The Commission, the Individual Defendants, and the Receiver **have** conferred pursuant to Federal Rule 26(f).

4. Amended pleadings may not be filed and additional parties may not be joined except as provided by the Federal Rules and the Local Civil Rules of the Southern District of New York (“Local Rules”).

5. Initial disclosures pursuant to Federal Rule 26(a)(1) shall be served by the Parties no later than **September 16, 2022**.

6. **Discovery**

(a) Subject to the Prior Orders, the Parties are to conduct discovery in accordance with the Federal Rules and the Local Rules.

(b) The Parties are to discuss, if and as appropriate, provisions for the disclosure, discovery, or preservation of electronically stored information (“ESI”). Any agreement

reached between the Parties concerning ESI is to be filed within 30 days from the date of this Order.

(c) All fact discovery shall be completed no later than **April 28, 2023**.

(d) Initial requests for production of documents shall be served by **September 23, 2022**.

(e) All subsequent document requests, if any, must be served by no later than **February 10, 2023**.

(f) Initial interrogatories pursuant to Local Rule 33.3(a), if any, shall be served by **September 30, 2022**.

(g) All subsequent interrogatories, if any, must be served no later than **March 24, 2023**.

(h) Requests for admission must be served no later than **March 24, 2023**.

(i) Fact depositions shall be completed by **April 28, 2023**.

i. Absent an agreement between the Parties or an order from the Court, depositions are not to be held until all Parties have responded to initial requests for document production.

ii. Absent an agreement between the Parties or an order from the Court, non-party depositions shall follow initial Party depositions.

(j) Any of the deadlines in Paragraphs 6(d) through 6(h) may be extended by the written consent of all Parties without application to the Court, provided that all fact discovery is completed by the date set forth in Paragraph 6(c).

7. **Expert Discovery**

(a) All expert discovery, including expert depositions shall be completed no later than **June 30, 2023**.

(b) All primary expert disclosures pursuant to Federal Rule 26(a)(2) shall be served on or before **May 12, 2023**.

(c) All rebuttal expert disclosures pursuant to Federal Rule 26(a)(2) shall be served on or before **June 2, 2023**.

(d) Any of the deadlines in Paragraphs 7(b) and 7(c) may be extended by the written consent of all Parties without application to the Court, provided that all expert discovery is completed by the date set forth in Paragraph 7(a).

8. All motions and applications, including discovery disputes, shall be governed by the Federal Rules, the Local Rules, and the Court's Individual Rules of Practice ("Individual Rules").

9. All discovery must be completed by **June 30, 2023**.

10. Any motions for summary judgment or *Daubert* motions must be filed on or before **August 11, 2023**.

11. Oppositions to any motions for summary judgment or *Daubert* motions must be filed on or before **September 15, 2023**.

12. Replies in further support of any motions for summary judgment or *Daubert* motions must be filed on or before **October 6, 2023**.

13. Within 45 days after the close of discovery or, if a dispositive motion has been filed, within 45 days of a decision on such motion, the Parties shall submit a Joint Pretrial Order prepared in accordance with Federal Rule 26(a)(3) and the Individual Rules.

14. The Parties shall file any motions *in limine* not less than 14 days prior to trial, with any oppositions due not less than 7 days prior to trial.

15. Trial in this matter shall commence on a date convenient for the Court in early December 2023 or on or after the second week of February 2024.

16. This case **is** to be tried to a jury.

17. Counsel for the Commission and Individual Defendants have conferred, and the present best estimate of the length of trial is approximately **10 to 15 trial days**.

18. Except as expressly provided herein, this Order may not be modified or the dates herein extended, except by further Order of this Court for good cause shown.

19. Absent an agreement by the Receiver, the Commission, and the Individual Defendants or a further Order of this Court on a motion by any of them, the Receiver, on behalf of the Corporate Defendants, shall not be subject to the terms of this Scheduling Order except that (i) the Receiver, on behalf of the Corporate Defendants, shall be treated for all purposes as a party to this Action solely for any discovery related to the Action that either the Commission or the Individual Defendants seek from the Corporate Defendants, (ii) the Commission and the Individual Defendants shall provide the Receiver with copies of all discovery demands and responses they serve on each other in accordance with this Scheduling Order, and subpoenas to and responses by non-parties, and (iii) the Receiver shall receive notice of and be permitted to attend, and on consent of the Parties or pursuant to further order of the Court, participate in any deposition scheduled by the Commission or the Individual Defendants.

20. The Individual Defendants assert the right to file cross-claims in this Action against the Receiver and/or the Corporate Defendants seeking indemnification or contribution from the

Receiver and/or Corporate Defendants, which assertion the Receiver rejects and as to which reserves all rights, including the right to assert that the Individual Defendants may only assert such claims as part of the Receivership claims process and not through cross-claims in this Action. In the event that any such cross-claims are permitted by an Order of this Court and proceed to discovery, the Receiver and the Individual Defendants shall engage in good faith negotiations to reach agreement on a discovery plan in accordance with Federal Rule 26(f).

21. Notwithstanding any provision or term of this Scheduling Order, nothing herein shall be construed to limit or otherwise modify: (i) the rights of the Commission, the Individual Defendants or the Receiver (inclusive of the Corporate Defendants) under applicable law (including but not limited to their rights under Federal law, the Federal Rules, Local Rules, Individual Rules, Prior Orders, or other Orders of this Court); and/or (ii) the Receiver's powers, duties, and responsibilities as set forth in the Receiver Order and any other Orders of this Court including, without limitation, the Receiver's power to take discovery as provided in the Receiver Order.

STIPULATED AND AGREED BY:

Dated: New York, NY
September 8, 2022

/s/ Samson Enzer

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Appointed Receiver for SP Ventures Fund LLC, SP
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SP Ventures Fund 4 LLC, SP Ventures Fund 5
LLC, SP Ventures Fund 6 LLC, SP Ventures
Fund 7 LLC, SP Ventures Fund 8 LLC, SP
Ventures Fund 9 LLC, Defendant StraightPath
Venture Partners LLC, and Defendant StraightPath
Management LLC*

SO ORDERED.

Dated: New York, NY
September __, 2022

Hon. Lewis A. Kaplan
United States District Judge